

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

DENNIS KLEIN, :
Plaintiff, : CIVIL ACTION NO. 3:10-CV-1690
v. :
U.S. BANK, et al., : (JUDGE CONABOY)
Defendants. : (Magistrate Judge Blewitt)

FILED
SCRANTON

DEC 03 2010

ORDER

PER CTR
DEPUTY CLERK

AND NOW, THIS 3rd DAY OF DECEMBER 2010, IT

APPEARING TO THE COURT THAT:

1. Plaintiff, Dennis Klein, currently a resident of Dingmans Ferry, Pike County, Pennsylvania, filed, *pro se*, the instant action under 18 U.S.C. § 241 and § 242, alleging fraud and conspiracy by Defendants U.S. Bank, a/k/a GMAC, and the United States Bankruptcy Court, Middle District of Pennsylvania, with respect to a mortgage foreclosure action instituted against him by U.S. Bank in the Pike County Court of Common Pleas, and with respect to his subsequent bankruptcy filings (Doc. 1);

2. The matter was assigned to United States Magistrate Judge Thomas M. Blewitt;

3. On November 15, 2010, Magistrate Judge Blewitt issued a Report and Recommendation (Doc. 6), wherein he addresses Defendant U.S. Bank a/k/a GMAC Mortgage LLC's Motion to Dismiss (Doc. 2);

4. Magistrate Judge Blewitt recommends that Defendant's Motion to Dismiss (Doc. 2) be granted and that Plaintiff's entire

action against both Defendants be dismissed with prejudice¹;

5. No objections were filed to the Magistrate Judge's Report and Recommendation and the time for such filing has passed.

IT FURTHER APPEARING TO THE COURT THAT:

1. When a magistrate judge makes a finding or ruling on a motion or issue, his determination should become that of the court unless objections are filed. See *Thomas v. Arn*, 474 U.S. 150-53 (1985). Moreover, when no objections are filed, the district court is required only to review the record for "clear error" prior to accepting a magistrate judge's recommendation. See *Cruz v. Chater*, 990 F. Supp. 375-78 (M.D. Pa. 1998); *Oldrati v. Apfel*, 33 F. Supp. 2d 397, 399 (E.D. Pa. 1998);

2. We find no clear error in the Magistrate Judge's recommendations.


ACCORDINGLY, IT IS HEREBY ORDERED THAT:

1. The Magistrate Judge's Report and Recommendation (Doc. 6) is adopted;

¹Magistrate Judge Blewitt notes that pursuant to his discussion, he finds futility of any amendment of Plaintiff's stated claims against both Defendants, and does not recommend Plaintiff be granted leave to amend his pleading with respect to these claims. (Doc. 6 at 27 n.12) (citing *Forman v. Davis*, 371 U.S. 178, 182 (1982); *Shane v. Fauver*, 213 F.3d 113, 115 (3d Cir. 2000) (The futility exception means that a complaint, as amended, would fail to state a claim upon which relief can be granted); *Alston v. Parker*, 363 F.3d 229, 235 (3d Cir. 2004); *Jacobowitz v. M&T Mortgage Corp.*, Civil No. 09-1332 (M.D. Pa. October 5, 2009), *aff'd*, 372 Fed. Appx. 225, 228 (3d Cir. March 24, 2010)).)

2. Defendant U.S. Bank a/k/a GMAC Mortgage LLC's Motion to Dismiss (Doc. 2) is granted, and this case is dismissed with prejudice in its entirety as against this Defendant;
3. Defendant U.S. Bankruptcy Court is also dismissed from this case with prejudice;
4. This entire case is dismissed;
5. The Clerk of Court is directed to close this case.

Dated: 12-3-10


RICHARD P. CONABOY
United States District Judge